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2 THE HONORABLE JAMES L. ROBART
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 DARREN DONAHUE,

11 Plaintiff,

12 v.

13 RED ROBIN INTERNATIONAL, INC., a
14 Nevada Corporation; RED ROBIN GOURMET
15 BURGERS, INC., a Delaware Corporation; and
16 HAROLD HART and his marital community,

17 Defendants.

18 No. 2:17-cv-00023-JLR

19 STIPULATED MOTION AND
20 [PROPOSED] ORDER REGARDING
21 ADMISSIBILITY OF EVIDENCE AT
22 TRIAL

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I. STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by Plaintiff and Defendants, that the following are excluded from evidence unless otherwise agreed to or ordered by the Court:

- A. All testifying non-parties shall be excluded from the court room prior to testifying under FRE 612;
- B. All questions, evidence, references to settlement offers, negotiations, mediation, or offers of judgment under FRE 408;
- C. All references to attorney's fees or shifting attorney's fees at trial.
- D. Any potential witnesses or documents not identified in discovery or on Initial Disclosures;
- E. Reference to Red Robin's or its officers' wealth, unless the Court has first allowed the issue of punitive damages to be heard by the jury;
- F. Any improper argument in opening or closing, such as urging the jury to "send a message" with the verdict (other than if authorized for punitive damages) or "golden rule" arguments such as "put yourself in a party's shoes."
- G. Evidence of motions *in limine* or other pre-trial rulings (such as summary judgment);
- H. Any evidence of insurance paying all or part of the judgment; evidence of any payments falling under the collateral source rule like unemployment insurance, short-term disability, or claims that Plaintiff received pay while on medical leave when the source of the payments was short-term disability."

The parties respectfully request the Court sign the Proposed Order below endorsing this stipulation.

11

1 STIPULATED to this 14th day of May, 2018.

2
3 THE BLANKENSHIP LAW FIRM, P.S.

4
5 By: s/Richard E. Goldsworthy
6 Scott C. G. Blankenship, WSBA No. 21431
Richard E. Goldsworthy, WSBA No. 40684
7 The Blankenship Law Firm, P.S.
1000 Second Avenue, Suite 3250
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11 *Attorneys for Plaintiff*

12 FISHER & PHILLIPS, LLP

13 By: s/Catharine Morisset per email authority
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14 *Attorneys for Defendants*

II. ORDER

THIS MATTER having come before the undersigned judge pursuant to the foregoing stipulation, and the Court being fully advised, it is hereby ORDERED as follows:

1. The following are excluded from evidence unless otherwise agreed to or ordered by the Court:

- A. All testifying non-parties shall be excluded from the court room prior to testifying under FRE 612;
- B. All questions, evidence, references to settlement offers, negotiations, mediation, or offers of judgment under FRE 408;
- C. All references to attorney's fees or shifting attorney's fees at trial.
- D. Any potential witnesses or documents not identified in discovery or on Initial Disclosures;
- E. Reference to Red Robin's or its officers' wealth, unless the Court has first allowed the issue of punitive damages to be heard by the jury;
- F. Any improper argument in opening or closing, such as urging the jury to "send a message" with the verdict (other than if authorized for punitive damages) or "golden rule" arguments such as "put yourself in a party's shoes."
- G. Evidence of motions *in limine* or other pre-trial rulings (such as summary judgment);
- H. Any evidence of insurance paying all or part of the judgment; evidence of any payments falling under the collateral source rule like unemployment insurance, short-term disability, or claims that Plaintiff received pay while on medical leave when the source of the payments was short-term disability."

11

DATED this 16th day of May, 2018.



THE HONORABLE JAMES L. ROBART
United States District Court Judge

PRESENTED BY:

THE BLANKENSHIP LAW FIRM, P.S.

By: s/ Richard E. Goldsworthy
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Attorneys for Defendants

STIPULATED MOTION AND ~~PROPOSED~~ ORDER
REGARDING ADMISSIBILITY OF EVIDENCE AT TRIAL

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1
2 **DECLARATION OF SERVICE**
3

4 I hereby certify under penalty of perjury under the laws of the State of Washington that
5 on the date and in the manner listed below I caused delivery of a true copy of the attached
6 document to the following attorneys for Defendants:

7 Suzanne Kelly Michael, WSBA No. 14072 by Electronic Mail
8 Catharine M. Morisset, WSBA No. 29682 by Facsimile Transmission
9 Margaret Burnham, WSBA No. 47860 by First Class Mail
10 Fisher & Phillips LLP by Hand Delivery
11 1201 Third Ave, Suite 2750 by Overnight Delivery
12 Seattle, WA 98101 by Notification via E-filing System
13 Telephone: (206) 682-2308
14 Facsimile: (206) 682-7908
15 Email: smichael@fisherphillips.com
16 cmorisset@fisherphillips.com
17 mburnham@fisherphillips.com

18 *Attorneys for Defendants*

19 DATED this 14th day of May, 2018, at Seattle, Washington.

20 s/ Richard E. Goldsworthy
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STIPULATED MOTION AND [PROPOSED] ORDER
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